

REMARKS

Claims 2-6 and 10-14 are pending.

I. "Response to Arguments"

Initially, it appears that the arguments and amendments presented in the Amendment of March 11, 2003 ("prior Amendment") have not been considered. In response to the Office Action of December 11, 2002 ("the prior Office Action"), the claims were amended to further clarify the distinctions between the cited references and the invention.

In response, the Examiner prepared the present Final Office Action. In Paragraph 6 ("Response to Arguments") therein, the Examiner states, "Applicant's [*sic*] arguments with respect to claims 2-6, 10-14 [*sic*] have been considered but [*sic*] are considered moot in view of the new ground(s) of rejection." However, as the only rejection not simply copied verbatim from the prior Office Action is an indefiniteness rejection - Paragraph 3 (with which Applicants respectfully request reconsideration, discussed below) - it is not understood how this rejection moots the arguments and amendments presented in the prior Amendment.

Thus, Applicants respectfully request substantive consideration of the arguments and amendments of the prior Amendment, including detailed analysis and comment thereon. Moreover, Applicants additionally request that any subsequent rejections be made non-final.

II. 35 USC § 112

Claim 13 stands rejected under 35 USC § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim that which is considered the invention. Applicants respectfully request reconsideration.

Specifically, the Office Action asserts that the term "said top end" in lines 2-3 of claim 13 lacks insufficient basis. However, the term "said top end" is not present in lines 2-3 or anywhere else in this claim. In fact, the element "a top end" is presented in claim 14, and is provided with sufficient antecedent basis therein. It appears that this rejection was simply copied over from

Paragraph 2 the Office Action of December 11, 2002, with only the particular claim being changed.

Additionally, the Office Action asserts that lines 1-2 of claim 13 are confusing, and suggests that the language be changed from “the groove ... of the adjacent ... groove” be changed to “the lip ... of the adjacent ... groove”. Applicants respectfully submit that lines 1-2 of claim 13 do not contain the offending terminology. If the Office Action is referring to lines 1-2 of the final section of claim 13, i.e., beginning with the “wherein” clause, Applicants respectfully present that the language of the claim is clear. As described therein, the groove of the adjacent panel has the same shape as the groove of the parquet board. Applicants do not understand how the lip of the adjacent board can have the same shape as the groove of the parquet board. At best, the lip can be the inverse of the shape of the groove of the parquet board. Reconsideration is thus requested.

## II. 35 USC § 102

Claims 2, 3, 5, 6, 10, 11 and 13 stand rejected under 35 USC § 102(b) as allegedly being anticipated by Moriau et al. (U.S. Patent No. 6,006,486). The Office Action asserts that Moriau et al. teaches each feature of the rejected claims. Applicants respectfully disagree.

As this rejection was also simply copied over from the prior Office Action, Applicants herewith copy the arguments presented in the prior Amendment in response to the rejection of the prior Office Action.

“In attempting to identify each feature of the rejected claims, the Office Action has literally “flipped” the floor panel 1 of the reference. In so doing, the Office Action equates the top of the panels of the present invention to the underside of the reference, indicated at 7. As the present claims recite specific orientations, in order for a reference to anticipate such claims, the reference must disclose each feature of the claim, including the positively recited orientations.

Thus, Applicants respectfully present that Moriau et al. fails to teach each feature of the present claims.

Additionally, Applicants respectfully submit that it would not have been obvious to invert the floor panels 1 of Moriau et al., such that underside 7 became the upper surface. Applicants direct the Examiner's attention to Col. 8, line 65 through Col. 9, line 15. Therein, the upper and lower surfaces of the panels are discussed. As is generally known in the flooring art (and recited by the present claims) modern floor coverings, such as laminated floors, and parquet often include a decorative upper surface and a lower structure, often known as the core. See Fig. 8 of Moriau et al., wherein the upper decorative surface is formed with a decorative layer 55 (paper impregnated with resin, which can be printed with a decorative pattern) and a protective top layer 56, and optionally an intermediate layer 57. Thus, the upper surface is particularly designed, and to invert the floor panel would defeat the purpose of such layers. Moreover, if the floor panel of the reference were inverted, a gap would be produced on the visible or exposed surface between the panels. See Fig. 7. Such a gap, or space between the lower lip 43 of one panel and the core 8 of a second panel would provide a location between the panels, allowing unsightly dirt and other particular matter to enter, as well as allow for water and other liquids to permeate the core to warp or otherwise damage the panel. This relationship is eliminated by the recitation of claim 13.

Furthermore, as amended, claim 13 recites a "decorative upper surface atop a core". While the panel of the reference also includes a core, by inverting the panel of the reference (as is suggested by the Office Action), the "upper surface" would actually become the lower surface with a gap at the joint of the panels.

Finally, this reference additionally fails to provide any motivation to direct one of ordinary skill to utilize the floor panels completely flipped over.

Reconsideration is requested."

Additionally, Applicants respectfully present that the upper and the lower surface of laminate flooring, such as described by the reference, are not exchangeable: While the upper surface is used for walking, the lower surface or underside has only a counter balancing effect for the top layer (see column 9, lines 10 to 15 of Moriau. see also column 8, line 65 to column 9, line

6 of Moriau et al.). Thus, Applicants respectfully present that Moriau et al. must be considered the other way round.

As a result, the following features of claim 13 are missing from Fig. 5 to 7 of the reference.

1. *wherein the top edge of the tongue is provided with a projecting locking running in the longitudinal direction of the tongue,*

In contrast, Moriau et al. shows a comparable locking lip on the lower edge of the tongue.

2.. *said recess is formed in a lower portion of the top groove cheek;*

In contrast, Moriau et al. discloses a recess in the upper portion of the lower groove cheek.

3. *the bottom groove cheek being shorter than the top groove cheek.*

According to Moriau et al. the upper groove cheek is shorter.

4. *a gradation is provided on the bottom groove cheek which widens only a portion of the groove and a tapered surface is provided between said widened portion of the groove and the remainder of the groove*

This feature defines the stepped character of the lower groove cheek. Nothing of this kind is shown in the cited reference.

5. *the tongue is provided in its root portion with a section of greater thickness than the remainder of the tongue forming a thicker tongue portion. the thickness of the remaining portion of the tongue being connected to said thicker tongue portion via a linear tapered surface*

The Office Acton refers to elements 40 and 38 of Moriau et al. which however designate the locking lip rather than the stepped form of the tongue.

6. *during assembly of the parquet board with the adjacent parquet board the thicker portion of the tongue is not yet engaged in the graduated portion of the groove so that the parquet board having the tongue can be displaced slightly downwards to facilitate the passage of the locking lip into the groove and the upper surface of a parquet board can be laid jointlessly with an upper surface of an adjacent parquet board.*

Since Moriau et al. discloses a parquet board having a longer lower lip, this kind of connecting between two parquet boards is not possible.

Reconsideration is thus requested.

III. 35 USC § 103

As the rejections under § 103 were also simply copied over from the prior Office Action, Applicants herewith copy the arguments presented in the prior Amendment in response to the rejection of the prior Office Action, and respectfully request consideration thereof.

“A. Claims 12 and 13

Claims 12 and 13 stand rejected under 35 USC § 103(a) as allegedly being unpatentable over Moriau et al. in view of Roy et al. The Office Action asserts that Moriau et al. teaches each feature of these claims, “except for the end of the tongue on a bottom side have a tapered surface”, for which purpose Roy et al. is cited.

However, Applicants respectfully submit that first section 12 of tongue 4 of Roy et al. is not a tapered surface as presently claimed. Specifically, section 12 is described as a circular or “substantially circular” (claim 1 and Col. 4, line 67), and section 16 is described as rolling across section 12. Thus, Roy et al. neither teaches nor suggests “a linear tapered surface” at the transition between the narrower and thicker sections, as recited by the present claims.

In any event, as Roy et al. fails to suggest to invert the floor panel of Moriau et al., the secondary reference fails to cure the deficiencies of Moriau et al. alone (as discussed in Section I above), Applicants respectfully present that claims 12 and 13 are not obvious in view of the teachings of Moriau et al. and Roy et al.

B. Claims 4, 13 and 14

Claims 4, 13 and 14 stand rejected under 35 USC § 103(a) as allegedly being unpatentable over Tsai et al. (U.S. Patent No: 5,274,979) in view of Moriau et al. The Office Action asserts that Tsai et al. teaches each feature of the rejected claims except for “a gradation being provided on the bottom groove cheek, which widens only a portion of the groove and a tapered surface being provided between the widened portion of the groove and the remainder of the groove”, for which purpose Moriau et al. is cited.

Even if the structure of Moriau et al. includes a gradation (apparently identified at G in Appendix B of the Office Action) in the bottom groove cheek, the structure of Tsai et al. is lacking other presently recited elements. For example, the present claims describe a linear tapered surface connecting the narrower (distal) portion to the wider (root or proximal) portion of the tongue. In contrast, the distal portion of the first wing 14 of Tsai et al. is provided with a vertical section connecting the narrower distal end to the wider proximal end, not a linear tapered surface. The lip 19 to which the Examiner refers in the Office Action is a protrusion, and not the transition to the thicker portion of the tongue. In fact, its function and position are completely unrelated to the transition, being as the Examiner recognizes, a “projection lip or ridge (see column 2, line 54). Thus, the asserted combination is lacking elements recited by claims 4, 13 and 14.”

IV. Conclusion

In view of the foregoing, withdrawal of all rejections and passage of the application to issue are respectfully requested.

Respectfully submitted,



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